

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

FLI DEEP MARINE LLC, BRESSNER :
PARTNERS LTD., LOGAN LANGBERG :
AND HARLEY LANGBERG :

Plaintiffs, :

vs. : Civil Action
: No. 5020-VCS

PAUL McKIM, B.J. THOMAS, :
DANIEL ERIKSON, FRANCIS WADE :
ABADIE, OTTO CANDIES, JR., :
OTTO CANDIES, III, EUGENE :
DePALMA, LARRY LENIG, JOHN :
ELLINGBOE, BRUCE GILMAN, JOHN :
HUDGENS, NASSER KAZEMINY, DCC :
VENTURES, LLC, NJK HOLDINGS :
CORPORATION, NKOC, INC., OTTO :
CANDIES, LLC, DEEP MARINE :
HOLDINGS, INC., AND DEEP :
MARINE TECHNOLOGY, INC., :

Defendants. :

- - -

Chancery Court Chambers
New Castle County Courthouse
Wilmington, Delaware
Monday, November 2, 2009
10:00 a.m.

BEFORE: HON. LEO E. STRINE, JR., Vice Chancellor.

OFFICE CONFERENCE

CHANCERY COURT REPORTERS
500 North King Street - Suite 11400
Wilmington, Delaware 19801-3759
(302) 255-0525

1 APPEARANCES:

2 LAURIE SCHENKER POLLECK, ESQ.
Jaspan Schlesinger LLP

3 -and-

4 MICHAEL A. LEON, ESQ.
of the New York Bar
Jaspan Schlesinger LLP

5 -and-

6 KATHERINE B. HARRISON, ESQ.
JASON J. SNYDER, ESQ.
of the New York Bar
7 Paduano & Weintraub LLP
For Plaintiffs FLI Deep Marine LLC,
8 Bressner Partners Ltd.,
Logan Langberg and Harley Langberg
9

10 PATRICIA L. ENERIO, ESQ.
Proctor Heyman LLP
11 For Defendant Paul McKim

12 RICK S. MILLER, ESQ. (via telephone)
Ferry, Joseph & Pearce, P.A.
13 For Defendant B.J. Thomas

14 MICHAEL J. MAIMONE, ESQ.
JOSEPH CICERO, ESQ.
15 Greenberg Traurig, LLP
For Defendants Deep Marine Holdings, Inc.
16 and Deep Marine Technology, Inc.

17 DENISE SEASTONE KRAFT, ESQ.
TYLER O'CONNELL, ESQ.
18 Edwards Angell Palmer & Dodge LLP
For DeepWork, Inc.
19

20 FRANCES GAUTHIER, ESQ.
Stradley Ronon Stevens & Young, LLP
-and-

21 KEVIN W. GOLDSTEIN, ESQ.
of the Pennsylvania Bar
22 Stradley Ronon Stevens & Young, LLP
For Otto Candies, Jr., Otto Candies, III
23

24 (Cont'd)

1 APPEARANCES: (Cont'd)

2 TODD C. SCHILTZ, ESQ.
3 Drinker Biddle & Reath LLP
4 For Defendants Bruce Gilman, Larry Lenig
5 and Francis Wade Abadie

6 DAVID S. EAGLE, ESQ.
7 Klehr, Harrison, Harvey, Branzburg &
8 Ellers LLP
9 For Defendants Daniel Erikson,
10 Eugene DePalma, John Hudgens,
11 Nasser Kazeminy, DCC Ventures, LLC and
12 NJK Holdings Corporation

13 - - -

14

15

16

17

18

19

20

21

22

23

24

1 THE COURT: Good morning, everyone.
2 You may proceed.

3 MS. HARRISON: Good morning, Your
4 Honor. Kate Harrison from Paduano & Weintraub,
5 counsel to FLI Deep Marine LLC, Bressner Partners,
6 Ltd., and the Langbergs, former minority shareholders
7 of approximately 5 percent of Deep Marine Holdings,
8 Inc., and its wholly owned subsidiaries Deep Marine
9 Technology, which we call together DMT.

10 Plaintiffs were most recently squeezed
11 out of DMT in a Delaware short-form merger. The
12 defendants are DMT, the controlling shareholders and
13 their entities, the current and former officers and
14 directors who have systematically stripped plaintiff
15 of their entire \$1.75 million investment and their
16 legal rights to complain or even inquire about what
17 happened to the company they invested in.

18 Plaintiff invested approximately
19 \$1.75 million in 2002 in a startup company to provide
20 subsea services in the oil and gas industry --
21 offshore, mainly, Gulf of Mexico.

22 THE COURT: I've read everything.
23 We're at a scheduling conference.

24 What is it you're seeking to enjoin?

1 MS. HARRISON: We want to make sure
2 that what remains of the assets of DMT are not taken
3 out of the jurisdiction so that we are left with
4 absolutely no remedy.

5 We fear that DMT and these defendants
6 are right now in the middle of selling the last few
7 valuable assets -- the vessels -- and that they may be
8 selling them under market value and that the proceeds
9 will disappear. So we seek to -- we seek to enjoin
10 only sales out of the ordinary course, and we just ask
11 that the proceeds be held in escrow and we seek
12 expedited discovery.

13 THE COURT: Okay.

14 MR. MAIMONE: Your Honor, Mike Maimone
15 for Deep Marine Holdings and Deep Marine Technology.

16 What plaintiffs are seeking here is,
17 in my view, unusual. I don't -- we view this as a
18 statutory appraisal action. We think all the issues
19 that are set forth in the complaint should be dealt
20 with in the appraisal action. I think the Glassman
21 decision in the Supreme Court holds that.

22 Actually, the fiduciary duty claims
23 are probably subject to a motion to dismiss by my
24 friends on the defendants' side, since I represent the

1 company, the company has no fiduciary duty. But in
2 connection with the current application, plaintiffs
3 base their application on pure speculation. Deep
4 Marine is an operating company. I was told by Deep
5 Marine that there's no plans to liquidate. There's no
6 plans to dissolve. They're merely trying to raise
7 cash to keep the operations going.

8 The plaintiffs, as a form of
9 stockholders, have taken the status as creditors. In
10 the Alabama By-Products decision, the Supreme Court
11 held that if you perfect your appraisal rights --
12 we're not conceding that everyone perfected their
13 appraisal rights -- but to the extent that any of the
14 plaintiffs perfected their appraisal rights, they're
15 creditors of the company and we believe they have full
16 rights of creditors. They have the fraudulent
17 conveyance laws to protect them -- 174 to protect
18 them. They have all the relief that the Court of
19 Chancery recognized in North American Catholic to
20 protect them.

21 So we don't really see the reason to
22 enter a TRO because Deep -- there's no -- based in the
23 complaint or any of the papers tendered, a TRO -- Deep
24 Marine is an operating company. It's going forward.

1 If that changes, then plaintiffs can enforce their
2 rights at that time. Right now, plaintiffs haven't a
3 ripeness argument because nothing is happening.
4 Plaintiffs are dealing with speculation because they
5 don't know anything and there's nothing really to
6 know. This is a damages action, where we can just
7 move forward in the ordinary course. My friends on
8 the defendants' side could file whatever motions they
9 deem appropriate in connection with a motion to
10 dismiss. The company will deal with the appraisal
11 action appropriately, and we can just move forward
12 with the appraisal action and whatever motion practice
13 my friends feel --

14 THE COURT: When the appraisal notice
15 was given, was the special committee report disclosed?

16 MR. MAIMONE: My understanding is it
17 was not.

18 MS. HARRISON: As you can tell from
19 the chronology of the case, the company announced that
20 the committee had reached its conclusion. It did not
21 give anybody the report, and the very next day it
22 announced the short-form merger. So it thereby ruined
23 our standing to continue the derivative action the
24 very next day. So we find the timing of that highly

1 suspicious. I think, when Vice Chancellor Noble
2 dismissed our derivative action without prejudice, he
3 assumed that we would be back.

4 THE COURT: Did no one get Mr. Miller
5 on the phone?

6 He is on the line.

7 Okay. Here's what we're going to do,
8 folks. I'm not setting up any kind of injunction
9 schedule. I don't know what we would enjoin. On the
10 other hand, I am granting expedited discovery. I'm
11 not exactly clear -- off the record.

12 (Discussion off the record.)

13 THE COURT: Back on the record. This
14 is a little wacky situation. I don't want -- I will
15 tell the defendants -- individual defendants -- don't
16 be looking for me to be sympathetic to motions to stay
17 discovery. Discovery is not going to be stayed. I'm
18 allowing expedited discovery because, frankly, this is
19 a record that creates a situation that -- at least a
20 colorable perception that people are horsing around.
21 I mean, the moving papers, with all fairness to the
22 defendants, telling me that they somehow got
23 vindicated in the derivative action, that's not what
24 happened at all. That is not what Vice Chancellor

1 Noble's decision says. What it says is people goofed
2 up. It's not the first time I've seen people goof up
3 like this. Folks who don't consult with Delaware
4 lawyers early on in a process sometimes, when they
5 make a demand, they go, "Oops." But the point is,
6 there's basis under the law to challenge even a
7 special committee's investigation. But you have to
8 wait until it's done.

9 As I understand what the defendants
10 did before Vice Chancellor Noble is say, "Look, the
11 law's the law." They goofed up. I believe
12 Vice Chancellor Noble indicated some doubts about the
13 independence of the committee. He let the process go
14 forward. Frankly, the defendants made arguments about
15 the amount of time they needed. It's not clear to me.
16 You can all shed light on this later on whether the
17 defendants were forthcoming about when they were
18 planning the merger, whether they were at all planning
19 a merger during the pendency of the suit before
20 Vice Chancellor Noble, whether they let anyone know
21 about it. Very interesting circumstances.

22 It may well be that all of these
23 things can be litigated purely in the context of the
24 appraisal. But the reality is, that's why discovery

1 should go forward because, if the defendants' --
2 individual defendants' -- argument is it all got
3 bought into the respondent, but you have to value all
4 these claims in the appraisal, well, then, the
5 discovery should go forward because it's essentially a
6 merits discovery. It's going to be relevant to value.

7 I also think there is some concern
8 about the respondent and the ability of the respondent
9 to answer these claims. You know, it would be a much
10 more edifying record, if somebody wants to put out an
11 appraisal notice with the actual report, if there is
12 such a report. Who knows at this point? What there
13 was some sort of exculpatory release apparently
14 saying, you know, nothing happened that was actionable
15 and there's a short-form merger and I think people got
16 offered pennies.

17 MS. HARRISON: One penny a share.

18 THE COURT: A penny a share.

19 So, it's a rather odd circumstance. I
20 have read Glassman. I'm very familiar with the 253
21 jurisprudence. I don't know what the exception is for
22 fraud, other sorts of things. But I won't rule out at
23 this stage the following possibility. There's a
24 derivative action pending. Folks made a procedural

1 goof-up by making a demand. A special committee is
2 formed in order to delay, doesn't really do a
3 professional job or an independent job, issues a
4 report which -- to somebody, but not to any of the
5 people who brought the derivative claims. And while
6 it gets the case dismissed on the grounds of delay,
7 that we need to investigate this and, immediately upon
8 concluding this thing, a short-form merger is done to
9 excuse -- to essentially wipe out the claim. We do
10 know that there is jurisprudence that says, when a
11 merger is done specifically for the purpose of getting
12 rid of claims, that that doesn't really get rid of the
13 claims. If there's ever a circumstance again where
14 people have played themselves into a perception, I
15 could not on a motion to dismiss rule out the
16 inference that these folks wanted to get rid of these
17 claims and did a short-form merger. You know, mergers
18 are powerful things. They're not just thought of
19 instantaneously. This one was done fairly shortly
20 after Vice Chancellor Noble considered a motion to
21 dismiss and granted it.

22 So what I would also urge on the
23 plaintiffs' side -- and I think I get into the
24 Delaware law. There's really no need. We're seeing

1 this more and more in the Court. 7 million counts. I
2 mean, I'm not saying -- you know, aiding and abetting
3 against the officer and director defendants. If
4 you're an officer and director, there's a term for
5 when you aid and abet a breach of fiduciary duty.
6 It's called a breach of fiduciary duty. It's
7 not -- we don't have like everybody is guilty of a
8 breach of fiduciary duty, plus because they did it in
9 concert with their fellows in aiding and abetting
10 claim.

11 I don't know what this fraud through
12 concealment is. How is that different from breach of
13 fiduciary duty? Fraud through silence in the face of
14 disclosure. A claim against controlling shareholders
15 for wrongful equity dilution. Claim against
16 controlling shareholder defendants for unjust
17 enrichment. I don't know how that's different from
18 the third cause of action, which is claims against the
19 controlling shareholder for breaches of their
20 fiduciary duties. It strikes me that, if they didn't
21 breach their fiduciary duties, there was no unjust
22 enrichment that, with respect to wrongful equity
23 dilution, what you're arguing is, there is a breach of
24 fiduciary duty and therefore these were self-dealing

1 transactions that wrongfully diluted folks because the
2 transactions were improperly priced or motivated.
3 These are not really separate causes of action.

4 Accounting. Accounting is a remedy.
5 You can put that in the wherefore clause, I believe.
6 You can say, wherefore because there have been
7 breaches of fiduciary duty, we need to get to the
8 bottom of this. There ought to be an accounting. All
9 I'm saying is, you're going to get expedited
10 discovery. I would urge on the cost sides of this --
11 I don't know how big this company is or what it is.
12 All I do know is two, four, six, eight, ten, 12, 13,
13 plus Mr. Miller on the phone, 14 lawyers, let the
14 record reflect. And I may have miscounted. I'm not
15 that great at math. Fourteen lawyers already. This
16 is an expensive morning; right? For the cost of this
17 morning, you could have doubled the consideration
18 given in the merger to the plaintiff. Right?

19 You know, only clients know what
20 really happened. Obviously there are professors of
21 philosophy who would say even they don't actually know
22 what happens. They have a perception of what
23 happened. But my point is that, you know, one of the
24 things that our profession really has to do is, you

1 always have to take -- you want to be vigilant in
2 representing your clients, but you actually need to
3 challenge them and talk to them. I don't know how
4 really valuable this is from the plaintiffs' side. I
5 don't know if this was a business going down the
6 drain. There's obviously the possibility, for
7 example, that these people did trivial -- even if you
8 accept the complaint as true -- did trivial
9 self-dealing transactions around the margins because
10 there was a political buddy. But that, in the scheme
11 of the world, they don't add up to a lot of economic
12 value.

13 I mean, you know, is this case really
14 about Mr. -- former Senator and Mrs. Coleman? If it's
15 a matter of that and some sort of principle, the case
16 might be settleable on that basis. Give to the people
17 who were cashed out the maximum amounts allegedly
18 overpaid to Senator Coleman and Mrs. Coleman. As I
19 get it -- I might be wrong -- but it wouldn't be
20 gazillions of dollars. It might be nice for people
21 like around here who work for the state and yearly pay
22 cuts, we would like to have some supplement of 25,000,
23 or whatever it was a month, or \$75,000.

24 But my point is that out of that does

1 not an appraisal case make. These obviously -- these
2 things with boats, though, and other things, at first
3 I couldn't -- Mr. Candies' name got me distracted
4 because I was trying to figure out the synergies
5 between a maritime company and some sort of candy
6 company, until I realized this was just a person's
7 name. It's like oh, there's Candies. A venerable
8 chocolatier in Minneapolis. Everybody at
9 Christmastime gives a box of Otto Candies to their
10 kids.

11 But what I'm saying, you have to size
12 up what you get out of this rather than you're just
13 angry. I'm not saying that's what's motivating it.
14 You have to figure that out.

15 On the defendants' side, again, you
16 know, you can't represent your clients without doing a
17 reality check on what went on. And sometimes things
18 that -- you know, sometimes things that look slick are
19 perfectly fine. And when it's all said and done, it
20 all looks above board. Obviously, when things that
21 are done are slick, they look slick. The genuinely
22 slick don't look slick because they figure out ways
23 for it not to look, you know, so immediately
24 suspicious. This is a situation where people managed.

1 Might have been the best thing in the end. I don't
2 know. But obviously was a course of events that
3 didn't look exactly edifying, particularly a
4 short-form merger like this where the economic
5 consideration given to the people being cashed out was
6 basically bupkis.

7 So, before you get into discovery, you
8 may want to figure out where your respective positions
9 are. What are the plaintiffs seeking out of this? I
10 don't know how many stockholders there were in
11 general. Obviously the investment -- is the
12 investment of all the cashed out people 1.7 million?

13 MS. HARRISON: No. That's just our
14 clients. There are a couple of other -- not very many
15 minority shareholders. There are a couple of other
16 groups.

17 THE COURT: You don't know what their
18 percentage holdings were in comparison to your
19 clients?

20 MS. HARRISON: Well, at the end of it,
21 because of the short-form merger, they held
22 90 percent, we held 5 percent.

23 THE COURT: I'm just talking about
24 like in terms of cash in. You're saying your clients

1 put in 1.7 million to get in?

2 MS. HARRISON: I don't know that. But
3 I know there is a group -- there is another group of
4 minority shareholders --

5 THE COURT: Did they perfect appraisal
6 rates?

7 MS. KRAFT: DeepWork is here, Your
8 Honor, we filed a tag-along action and we did perfect
9 our rights, is our contention, and that was somewhere
10 in the vicinity of \$800,000. A little bit over a
11 million. I'm still trying to figure that out.

12 THE COURT: So there's another action.
13 Have I gotten papers in chambers about that?

14 MS. KRAFT: They were sent over on
15 Friday. My understanding -- and I spoke with counsel
16 for the FLI plaintiff earlier -- is that there are a
17 couple other minority shareholders. This was not
18 filed as a class action. That's another consideration
19 for amendment. We haven't really spoken about that.

20 THE COURT: Well, I think one of the
21 things you ought to be talking about is coordinating
22 whether it's a class action or not. Obviously it
23 would be better to have one complaint. But between
24 your two groups, do we essentially have all the other

1 minority --

2 MS. HARRISON: I think a couple of the
3 defendants also have -- were minority shareholders.

4 THE COURT: I'm assuming they don't
5 care about that.

6 MS. HARRISON: Right. But what I'm
7 saying is, I think it's a very small universe of
8 minority shareholders.

9 MS. KRAFT: We're thinking maybe about
10 a group of five or six. Would that be correct?

11 MS. HARRISON: Yeah, at most.

12 THE COURT: Five or six, in addition
13 to your groups?

14 MS. HARRISON: No, I think it might be
15 DeepWork and maybe one other group only.

16 THE COURT: Is Mr. McKim part of one
17 of these groups?

18 MS. HARRISON: Mr. McKim is a
19 defendant.

20 THE COURT: I understand that. I get
21 that he's a defendant. Your papers didn't seem
22 particularly hostile toward him.

23 MS. HARRISON: Well, because we
24 believe he was a whistleblower, in a sense.

1 THE COURT: Right.

2 What I'm trying to talk about here
3 is -- in a room where we got -- what did we say? --we
4 counted up with Mr. Miller, 15 or 14 lawyers -- is, as
5 we go forward, there will be material amounts of money
6 spent.

7 MS. HARRISON: Absolutely right.

8 THE COURT: All I'm saying is,
9 sometimes what people want -- you know, they don't
10 want to be suckers -- is sometimes, if you focus early
11 on what's at stake, what the costs of enforcement are
12 and all that kind of good stuff, you know, it may be
13 like everybody gives their clients litigation budgets
14 and all that kind of stuff. That before you go spend
15 hundreds of thousands of dollars, as you will in
16 discovery, no doubt, that you begin to think about,
17 you know, what it is. Sometimes people's investments
18 in -- "Like I at least want my money back and I think
19 these people are jerks and I will never invest with
20 them again. If I can at least get the skin that I put
21 in the game back or something like it, then I'm
22 willing to move on because I'm realistic about the
23 world." You know, I don't know. I don't know what
24 that would mean in terms of the defendants. I don't

1 know any of it.

2 I do know, as professionals, if you're
3 representing people who are being rational, now is the
4 time, rather than later, to think about it. What I'm
5 saying to the defendants is, this is not a surgical
6 case. This is not one you're going to come in and say
7 this is a really neat, tidy record. We had
8 Warren Buffett and Bill Gates as the special
9 committee, advised by counsel for religious elders and
10 ethics professors, and therefore, you know, you just
11 get rid of it early. It's just not going to be that
12 way. It may over time bear up. But it bears up
13 after, you know, that wonderful thing we call
14 discovery.

15 And after the discovery happens,
16 people writing briefs and all that kind of stuff,
17 which, again, I don't know how people keep that in the
18 five figures. Since you all -- you are going to have
19 those costs, too. Fee shifting is not prevalent in
20 the U.S. I don't know what these things are worth in
21 the current market. So take that to heart. I don't
22 need to set a schedule at this point. You need to
23 talk about getting discovery going.

24 What I would suggest would be

1 rational, if you're not going to get it settled, would
2 be that you focus on getting some document discovery
3 done first, then perhaps getting the plaintiffs to --
4 the multiple plaintiffs to coordinate and file an
5 amended pleading that everybody takes a shot at.

6 MS. HARRISON: Your Honor, this is a
7 difficult group of lawyers. I've had already
8 difficult experiences with this group. If I could ask
9 you to set some kind of a schedule, also. We need it.
10 That's one reason I'm here.

11 THE COURT: What I would tell to the
12 defendants, this is going to be sort of
13 self-enforcing. You're going to have claims holding
14 over your head until you get the document discovery
15 done.

16 You know, it's going to be pretty
17 simple. You know, they're going to want to get rid of
18 the claims. Well, you're shaking your head. I'm not
19 going to do this. Look, they're in court now. If
20 people horse around with this Court, this Court takes
21 care of them. I've ordered the discovery to go
22 forward and it's going to go forward. If people are
23 obstinate, they will -- you can file a motion.

24 MS. HARRISON: Thank you.

1 THE COURT: I think everybody
2 understands.

3 I have no idea -- you said they're
4 difficult. I don't know how difficult you've been,
5 not to say that you're not the most gracious,
6 wonderful person in the world. I'm just not there.
7 Sometimes it's been my experience that -- on more than
8 one occasion -- that difficulties arise and no one is
9 exactly in the right.

10 What I'm saying is, you haven't made
11 any kind of record of that today. You have not.

12 MS. HARRISON: It's in my affidavit.

13 THE COURT: What, that they didn't
14 give you documents?

15 MS. HARRISON: It's in my affidavit
16 that my very first phone call with Nasser Kazeminy's
17 law firm is the man threatening me. It's a very
18 difficult group of lawyers. I've never experienced
19 that kind of difficulty in my life, and I've been
20 practicing for 20 years. And I practice in
21 New York City where you think they're tough. I have
22 not experienced this before. And I really believe
23 that we need --

24 THE COURT: Well, you're in Chancery

1 now. I don't know who is representing -- I can't
2 pronounce his name at this point.

3 MR. EAGLE: This is David Eagle. I'm
4 representing Nasser Kazeminy. I never met Miss
5 Harrison until this morning. Never had a phone call
6 or e-mail. We're in Delaware. We're in Chancery
7 Court. Everyone is going to work cooperatively.

8 THE COURT: If you hear from somebody
9 who is not admitted pro hac about this case, then
10 bring it to the attention of the Court. What you did
11 in -- before this case was filed -- again, I was not
12 the Judge. I don't know if this was before in the
13 later case, or after the dismissal or whatever. But I
14 have found that when people have to file pro hac and
15 get -- you know, face the music, all -- we do have
16 Delaware lawyers here and they're regularly
17 accountable to the Court. And they're the ones -- the
18 people who are appearing here are the ones going to be
19 responsible for discovery.

20 I also expect -- I shouldn't have to
21 say this, but I've been astonished -- I expect that
22 the Delaware lawyers will be meaningful in discovery
23 and discovery is not left to clients. People visit
24 offices, people find out where the documents are.

1 People don't tell clients, "Go through your hard drive
2 and find your e-mails." That is not discovery. That
3 was never appropriate discovery before e-mail. It's
4 certainly not now. You never told a client, "Oh, look
5 in your drawer. Find all the good stuff and send it
6 to me." Yeah. Right. I mean, that is not a
7 trustworthy way to do discovery.

8 I'm also assuming, if there was a
9 special committee report, that a lot of the stuff is
10 compiled.

11 MS. SCHENKER POLLECK: Your Honor,
12 could you order a stipulated order for discovery or --

13 THE COURT: If you all -- the ones
14 getting close to the line now are on the plaintiffs'
15 side of the table. Okay? This is not take-out. I'm
16 not taking your take-out menu. I ordered expedited
17 discovery. The first instance you sit down, you can
18 use the room here and you can talk to your colleagues.
19 The way we're going to do this is documents first. I
20 said that. I think I've been pretty clear. You get
21 the documents from all the defendants.

22 What I would then suggest is a period
23 of time for the plaintiff to put together an amended
24 pleading. I'm not going to say whether expedited

1 discovery means they get the documents in ten days, 20
2 days or 30 days. This is a claim for money. Okay?
3 This is what this is about. I'm also not going to
4 have two groups of plaintiffs acting in an
5 uncoordinated way.

6 MS. KRAFT: Your Honor, Denise Kraft.
7 I intend to fully coordinate. We don't have the
8 ability to do that yet. We will absolutely coordinate
9 this case.

10 THE COURT: Right. Again, get --
11 think about your litigation budgets, think about early
12 on whether, you know, it makes sense to go forward or
13 whether you want to take a shot at resolving it early
14 because it's going to get expensive. But that's the
15 structure. I'm not going to sit here and tell you how
16 many minutes.

17 You haven't even talked to the people
18 on the other side.

19 Okay. Thank you.

20 (Conference adjourned at 10:35 a.m.)

21

22

23

24

CERTIFICATE

I, DIANE G. MCGRELLIS, Official Court
Reporter of the Chancery Court, State of Delaware, do
hereby certify that the foregoing pages numbered 3
through 25 contain a true and correct transcription of
the proceedings as stenographically reported by me at
the hearing in the above cause before the Vice
Chancellor of the State of Delaware, on the date
therein indicated.

IN WITNESS WHEREOF I have hereunto set
my hand at Wilmington, this 3rd day of November, 2009.

/s/ Diane G. McGrellis

Official Court Reporter
of the Chancery Court
State of Delaware

Certification Number: 108-PS
Expiration: Permanent